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From: Mitchell Lazarus
To: Mike Powell, Commissioner Adelstein, Kathleen Abernathy, Kevin Martin, Michael Copps, jmuleta@fcc.gov, Gerald Vaughan, Kathleen Ham-O'Brien, David Furth, Ed Thomas, Julius Knapp, Bruce Franca, Bruce Romano, Jim Schlichting
Date: Wed, Apr 23, 2003 2:54 PM
Subject: Opposition in RM-10681

Attached is a Partial Opposition to Petition for Rulemaking filed today by Vanu., Inc. in RM-10681, "Proliferation of Programmable Radios on Unauthorized Frequencies in Various Other Radio Services Under Commission Regulation."

Please do not hesitate to call with any questions.

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MAY - 8 2003

Federal Communications Commission
Office of the Secretary

Noted/checked rec'd
6/11/03

Before the
Federal Communications Commission
 Washington DC 20554

In the Matter of)
)
 Proliferation of Programmable Radios on) RM-10681
 Unauthorized Frequencies in Various)
 Other Radio Services Under Commission)
 Regulation)

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MAY - 8 2003

*Federal Communications Commission
 Office of the Secretary*

PARTIAL OPPOSITION TO PETITION FOR RULEMAKING

Vanu, Inc. hereby opposes the above captioned Petition for Rulemaking to the extent set out below. Vanu is a developer of software for software defined radio systems.

The Petition claims there is a proliferation of radios programmed to operate on frequencies for which the user is not authorized. It proposes a rule under which persons programming radios at specified frequencies would be required to hold a commercial radio operators license.¹

Vanu takes no position on whether the problem identified in the Petition is severe enough to require regulatory action, or whether the problem exists at all. Vanu likewise takes no position on whether Petitioner's proposed remedy would solve the problem, if any.

Vanu's sole interest is to note that any action taken in response to the Petition should exclude software-defined radios. Because software-defined radios (including cognitive radios) are programmable to operate on various frequencies (among other characteristics), they may arguably come within the Petition's scope. But the Commission recently promulgated rules

¹ The Petition specifies 29.705-49.995 MHz, 72-76 MHz, 140-220 MHz, and 400-1,800 MHz, and suggests the list be expanded as needed. Petition at 2.

specific ally to regulate the programming of software-defined radios.² The additional layer of regulation sought in the Petition would be duplicative and unnecessary, and as such would represent a burden with no benefit.

In short, if the Commission proceeds with a Notice of Proposed Rulemaking in this matter, the scope should expressly exclude software-defined radios.

Respectfully submitted,

Mitchell Lazarus
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April 18, 2003

² 47 C.F.R. Sec. 2.1043(b)(3).
Radios, 16 FCC Rcd 17373 (2001).

See Authorization and Use of Software Defined

CERTIFICATE OF SERVICE

I, Deborah N. Lunt, a secretary with the law firm of Fletcher, Heald & Hildreth, PLC, hereby certify that a true copy of the foregoing "Opposition to Petitions for Rule Making" was sent this 18th day of April, 2003, by U.S. mail, postage prepaid (except as noted) to:

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